

0005

Incoming
c/007/0012
Q

From: "Garcia, Tony" <TGarcia@nvenergy.com>
To: "angelanance@utah.gov" <angelanance@utah.gov>
Date: 6/25/2009 5:49 PM
Subject: FW: NEICO BOND
Attachments: nashville_bondsafeguard_com_20090527_142836.pdf; NEICO Reclamation Bond Exh
ibit D 5-20-09.pdf

Angela,

Sorry for the delay in returning this information to you.

Attached please find the signed Exhibit "D" and an explanation to your question (below and attached) regarding the bond amount discrepancy you noted in your original e-mail (also below).

If you have any questions, give me a call.

Tony D. Garcia, C.E.M. | Manager, Environmental Services
NV Energy, Inc. | 6226 W. Sahara Ave. M/S 30 | Las Vegas, NV 89146
Office 702.402.5767 | TGarcia@NVEnergy.com | <mailto:TGarcia@NVEnergy.com> Fax 702.402.2051

"Rangers" - Diversity Champion
"Teamwork Checkmates Talent"

From: Moody, Lauren
Sent: Wednesday, May 27, 2009 2:37 PM
To: Garcia, Tony
Cc: Vo, Angela; Brown, Sarah
Subject: FW: NEICO BOND
Importance: High

Tony,

Please see the below answer to your question from the State of Utah. Please let me know if the State needs to talk with our Bond agent (Willis) or the Bonding company (Bond Safeguard) and I can set up a meeting.

Thanks,
Lauren Moody | Analyst, Risk Control
NV Energy, Inc. | 6226 W. Sahara Ave. M/S 9A | Las Vegas, NV 89146
702.402.5021 | lmoody@nvenergy.com | fax 702.702.5342
[cid:image001.gif@01C9DED8.8E5DE470]

From: Jensen, David [mailto:david.jensen@willis.com]
Sent: Wednesday, May 27, 2009 2:30 PM
To: Moody, Lauren
Cc: Baich, Brandy
Subject: FW: NEICO BOND
Importance: High

Lauren I have attached the response from Bond Safeguard addressing the Treasury-listing amount for Bond Safeguard and the amount of the bond. The practice of providing reinsurance from one insurance company to another to increase the T-listing is very common, especially in the case of bonds written close to \$1 billion. Let me know if the State of Utah would like to discuss this matter with me or Bond Safeguard

to resolve this question.

Thanks,

David G. Jensen

Senior Vice President

Willis of Arizona, Inc.

Tel: 602-787-6022

Fax: 602-787-6108

Cell: 602-370-2334

From: Baich, Brandy

Sent: Tuesday, May 26, 2009 3:20 PM

To: Jensen, David

Subject: NEICO BOND

Importance: High

Dave,

See below on NEICO bond. Looks like they are questioning Bond Safeguard's Treasury underwriting limitation.

Brandy Baich | Assistant Vice President - Surety

[cid:536101922@26052009-14A0]

| Direct 602.787.6004 | Fax 602.787.6108 | Toll Free 800.933.6385 |

Willis of Arizona, Inc. | 11201 N. Tatum Blvd. #300, Phoenix, AZ 85028

www.willis.com | brandy.baich@willis.com

From: Moody, Lauren [mailto:LMoody@nvenergy.com]

Sent: Tuesday, May 26, 2009 3:17 PM

To: Baich, Brandy

Subject: FW: Wellington Bond Transfer

Brandy,

Can you help me with the below bolded text? I am not sure about this in regards to the Safeguard NEICO Bond.

Thanks,

Lauren Moody | Analyst, Risk Control

NV Energy, Inc. | 6226 W. Sahara Ave. M/S 9A | Las Vegas, NV 89146

702.402.5021 | lmoody@nvenergy.com | fax 702.702.5342

-----Original Message-----

From: Garcia, Tony

Sent: Tuesday, May 26, 2009 2:40 PM

To: Moody, Lauren

Cc: Trautmann, Susan

Subject: FW: Wellington Bond Transfer

Lauren,

To answer your earlier question - yes, the State of Utah has received our new bond agreement paperwork.

But - as you read below, they have some questions.

I have filled in the information for the attached, but I can't answer the question about \$\$ limitations being different - can you please follow up and let me know.

Please obtain appropriate signatures on the attached and forward back to me for submittal to the State of Utah accordingly.

Thx.

Tony D. Garcia, C.E.M. | Manager, Environmental Services

NV Energy, Inc. | 6226 W. Sahara Ave. M/S 30 | Las Vegas, NV 89146

Office 702.402.5767 | TGarcia@NVEnergy.com | Fax 702.402.2051

"Rangers" - Diversity Champion

"Teamwork Checkmates Talent"

-----Original Message-----

From: Angela Nance [mailto:angelanance@utah.gov]

Sent: Tuesday, May 26, 2009 2:31 PM

To: Garcia, Tony

Subject: Wellington Bond Transfer

Hi Tony,

I received several documents for the transfer of the Wellington Preparation Plant bond from Fidelity and Deposit Company of Maryland to Bond Safeguard Insurance Company. The letter indicates that enclosed is a signed "Stipulation to Revise Reclamation Agreement" - this document was not included in the packet I received in the mail. I did receive all of the proper Affidavits of Qualification, Power of Attorney and new Bond Agreement - thank you for these documents.

Will you please complete the attached Exhibit "D" - Stipulation to Revise Reclamation Agreement and return to me as soon as possible so that I can continue to process this transfer.

Also, according to the Department of the Treasury - Bond Safeguard Insurance Company's underwriting limitation is \$1,866,000. According to the Power of Attorney form the authorized amount is \$6M. Do you know why there is a discrepancy?

Thank you,

Angela Nance

Bond Coordinator

angelanance@utah.gov

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May 20, 2009

Dave Jensen
Willis

Re: US Treasury Regulations

Dear Dave,

According to, US Treasury Regulations a Treasury Listed Surety Company may write a bond in excess of its underwriting limitation, or Treasury Limit, by using coinsurance, reinsurance or cash collateral. Please refer to 31 CFR, Part 223 Regulations Governing Surety Companies Doing Business with the United States which is attached hereto. We refer you specifically to Sec. 223.10 Limitation of Risk and Sec. 223.11 Limitation of Risk: Protective Methods which speak to the means of compliance with Treasury regulations when the bond penalty exceeds the Direct Writing Company's Treasury Limit. The regulations can be found at the following website www.fms.treas.gov/fedreg/31cfr223.1-22.html

Bond Safeguard's underwriting limitation for the year ending June 30, 2009 is \$1,866,000. The bond penalty is \$5,153,000. We arranged reinsurance from Lexon Insurance Company in the amount of \$3,287,000 to cover the difference between Bond Safeguard's Treasury Limit and the bond penalty.

The Power of Attorney is our specific authority to allow those mentioned on the document to sign on behalf of Bond Safeguard on its bonds up to \$6,000,000. We do not issue a new Power of Attorney for each bond but furnish a limited number for various limits to cover the majority of bonds written by a particular Agency.

Sincerely,

Gregory E. Semrow
Vice President

**[Code of Federal Regulations]
[Title 31, Volume 2, Parts 223]
[Revised as of July 1, 1997]
From the U.S. Government Printing Office via GPO Access
[CITE: 31CFR223.1-22]**

**31 CFR, Part 223
REGULATIONS GOVERNING SURETY COMPANIES
DOING BUSINESS WITH THE UNITED STATES**

Sec. 223.1 Certificate of authority.

The regulations in this part will govern the issuance by the Secretary of the Treasury of certificates of authority to bonding companies to do business with the United States as sureties on, or reinsurers of, recognizances, stipulations, bonds, and undertakings, hereinafter sometimes called obligations, under the provisions of the Act of July 30, 1947 (61 Stat. 646, as amended; 6 U.S.C. 6-13), and the acceptance of such obligations from such companies so long as they continue to hold said certificates of authority.

Sec. 223.2 Application for certificate of authority.

Every company wishing to apply for a certificate of authority shall address the Assistant Commissioner, Comptroller, Financial Management Service, U.S. Department of Treasury, Washington, DC 20226, who will notify the company of the data which the Secretary of the Treasury determines from time to time to be necessary to make application. In accord with 6 U.S.C. 8 the data will include a copy of the applicant's charter or articles of incorporation and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. A fee shall be transmitted with the application in accordance with the provisions of Sec. 223.22(a)(1).

Sec. 223.3 Issuance of certificates of authority.

(a) If, from the evidence submitted in the manner and form herein required, subject to the guidelines referred to in Sec. 223.9 the Secretary of the Treasury shall be satisfied that such company has authority under its charter or articles of incorporation to do the business provided for by the Act referred to in Sec. 223.1, and if the Secretary of the Treasury shall be satisfied from such company's financial statement and from any further evidence or information he may require, and from such examination of the company, at its own expense, as he may cause to be made, that such company has a capital fully paid up in cash of not less than \$250,000, is solvent and financially and otherwise qualified to do the business provided for in said Act, and is able to keep and perform its contracts, he will, subject to the further conditions herein contained, issue a certificate of authority to such company, under the seal of the Treasury Department, to qualify as surety on obligations permitted or required by the laws of the United States to be given with one or more sureties, for a term expiring on the last day of June next following. The certificate of authority shall be renewed annually on the first day of July, so long as the company remains qualified under the law and the regulations in this part, and transmits to the Assistant Commissioner, Comptroller by March 1 each year the fee in accordance with the provisions of Sec. 223.22(a)(3).

(b) If a company meets the requirements for a certificate of authority as an acceptable surety on Federal bonds in all respects except that it is a United States branch of a company not incorporated under the laws of the United States or of any State, or it is limited by its articles of incorporation or corporate charter to reinsure business only, it may be issued a certificate of authority as a reinsuring company on Federal bonds. The fees for initial application and renewal of a certificate as a reinsuring company shall be the same as the fees for a certificate of authority as an acceptable surety on Federal bonds.

Sec. 223.4 Deposits.

No such company will be granted authority to do business under the provisions of the act referred to in Sec. 223.1 unless it shall have and maintain on deposit with the Insurance Commissioner, or other proper financial officer, of the State in which it is incorporated, or of any other State of the United States, for the protection of claimants, including all its policyholders in the United States, legal investments having a current market value of not less than \$100,000.

Sec. 223.5 Business.

(a) The company must engage in the business of suretyship whether or not also making contracts in other classes of insurance, but shall not be engaged in any type or class of business not authorized by its charter or the laws of the State in which the company is incorporated. It must be the intention of the company to engage actively in the execution of surety bonds in favor of the United States.

(b) No bond is acceptable if it has been executed (signed and/or otherwise validated) by a company or its agent in a State where it has not obtained that State's license to do surety business. Although a company must be licensed in the State or other area in which it executes a bond, it need not be licensed in the State or other area in which the principal resides or where the contract is to be performed. The term other area includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Sec. 223.6 Requirements applicable to surety companies.

Every company now or hereafter authorized to do business under the act of Congress referred to in Sec. 223.1 shall be subject to the regulations contained in this part.

Sec. 223.7 Investment of capital and assets.

The cash capital and other funds of every such company must be safely invested in accordance with the laws of the State in which it is incorporated and will be valued on the basis set forth in Sec. 223.9. The Secretary of the Treasury will periodically issue instructions for the guidance of companies with respect to investments and other matters. These guidelines may be updated from time to time to meet changing conditions in the industry.

Sec. 223.8 Financial reports.

(a) Every such company will be required to file with the Assistant Commissioner, Comptroller on or before the last day of January of each year, a statement of its financial condition made up as of the close of the preceding calendar year upon the annual statement

blank adopted by the National Association of Insurance Commissioners, signed and sworn to by its president and secretary.

On or before the last days of April, July and October of each year, every such company shall file a financial statement with the Assistant Commissioner, Comptroller as of the last day of the preceding month. A form is prescribed by the Treasury for this purpose. The quarterly statement form of the National Association of Insurance Commissioners when modified to conform to the Treasury's requirements, may be substituted for the Treasury's form. The quarterly statement will be signed and sworn to by the company's president and secretary or their authorized designees.

(b) Every such company shall furnish such other exhibits or information, and in such manner as the Secretary of the Treasury may at any time require.

Sec. 223.9 Valuation of assets and liabilities.

In determining the financial condition of every such company, its assets and liabilities will be computed in accordance with the guidelines contained in the Treasury's current Annual Letter to Executive Heads of Surety Companies. However, the Secretary of the Treasury may value the assets and liabilities of such companies in his discretion. Credit will be allowed for reinsurance in all classes of risks if the reinsuring company holds a certificate of authority from the Secretary of the Treasury, or has been recognized as an admitted reinsurer in accord with Sec. 223.12.

Sec. 223.10 Limitation of risk.

Except as provided in Sec. 223.11, no company holding a certificate of authority shall underwrite any risk on any bond or policy on behalf of any individual, firm, association, or corporation, whether or not the United States is interested as a party thereto, the amount of which is greater than 10 percent of the paid-up capital and surplus of such company, as determined by the Secretary of the Treasury. That figure is hereinafter referred to as the underwriting limitation.

Sec. 223.11 Limitation of risk: Protective methods.

The limitation of risk prescribed in Sec. 223.10 may be complied with by the following methods:

(a) Coinsurance. Two or more companies may underwrite a risk on any bond or policy, the amount of which does not exceed their aggregate underwriting limitations. Each company shall limit its liability upon the face of the bond or policy, to a definite specified amount which shall be within its underwriting limitation.

(b) Reinsurance.

(1) In respect to bonds running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond with one or more companies holding a certificate of authority from the Secretary of the Treasury. Such reinsurance shall not be in excess of the underwriting limitation of the

(2) If such obligation was incurred on behalf of or on account of a fiduciary holding property in a trust capacity, by a joint control agreement which provides that the whole or a sufficient portion of the property so held may not be disposed of or pledged in any way without the consent of the insuring company.

Sec. 223.12 Recognition as reinsurer.

(a) Application by U.S. company. Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Comptroller for Auditing and shall transmit therewith the fee in accordance with the provisions of Sec. 223.22(a)(2):

(1) A certified copy of its charter or articles of incorporation, and

(2) A certified copy of a license from any State in which it has been authorized to do business, and

(3) A copy of the latest available report of its examination by a State Insurance Department, and

(4) A statement of its financial condition, as of the close of the preceding calendar year, on the annual statement form of the National Association of Insurance Commissioners, signed and sworn to by two qualified officers of the company, showing that it has a capital stock paid up in cash of not less than \$250,000, in the case of a stock insurance company, or has net assets of not less than \$500,000 over and above all liabilities, in the case of a mutual insurance company, and

(5) Such other evidence as the Secretary of the Treasury may determine necessary to establish that it is solvent and able to keep and perform its contracts.

(b) Application by a U.S. branch. A U.S. branch of an alien company applying for such recognition shall file the following data with the Assistant Commissioner, Comptroller and shall transmit therewith the fee in accordance with the provisions of Sec. 223.22(a)(2):

(1) The submissions listed in paragraphs (a) (1) through (5) of this section, except that the financial statement of such branch shall show that it has net assets of not less than \$250,000 over and above all liabilities, and

(2) Evidence satisfactory to the Secretary of the Treasury to establish that it has on deposit in the United States not less than \$250,000 available to its policyholders and creditors in the United States.

(c) Financial reports. Each company recognized as an admitted reinsurer shall file with the Assistant Commissioner, Comptroller on or before the first day of March of each year its financial statement and such additional evidence as the Secretary of the Treasury determines necessary to establish that the requirements of this section are being met. A fee shall be transmitted with the foregoing data, in accordance with the provisions of Sec. 223.22(a)(4).

Sec. 223.13 Full penalty of the obligation regarded as the liability; exceptions.

In determining the limitation prescribed in this part, the full penalty of the obligation will be regarded as the liability, and no offset will be allowed on account of any estimate of risk which is less than such full penalty, except in the following cases:

(a) Appeal bonds; in which case the liability will be regarded as the amount of the judgment appealed from, plus 10 percent of said amount to cover interest and costs.

(b) Bonds of executors, administrators, trustees, guardians, and other fiduciaries, where the penalty of the bond or other obligation is fixed in excess of the estimated value of the estate; in which cases the estimated value of the estate, upon which the penalty of the bond was fixed, will be regarded as the liability.

(c) Credit will also be allowed for indemnifying agreements executed by sole heirs or beneficiaries of an estate releasing the surety from liability.

(d) Contract bonds given in excess of the amount of the contract; in which cases the amount of the contract will be regarded as the liability.

(e) Bonds for banks or trust companies as principals, conditioned to repay moneys on deposit, whereby any law or decree of a court, the amount to be deposited shall be less than the penalty of the bond; in which cases the maximum amount on deposit at any one time will be regarded as the liability.

Sec. 223.14 Schedules of single risks.

During the months of January, April, July, and October of each year every company will be required to report to the Secretary of the Treasury every obligation which it has assumed during the 3 months immediately preceding, the penal sum of which is greater than 10 percent of its paid up capital and surplus, together with a full statement of the facts which tend to bring it within the provisions of this part, on a form suitable for the purpose.

Sec. 223.15 Paid up capital and surplus for Treasury rating purposes; how determined.

The amount of paid up capital and surplus of any such company shall be determined on an insurance accounting basis under the regulations in this part, from the company's financial statements and other information, or by such examination of the company at its own expense as the Secretary of the Treasury may deem necessary or proper.

Sec. 223.16 List of certificate holding companies.

A list of qualified companies is published annually as of July 1 in Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, with information as to underwriting limitations, areas in which licensed to transact surety business and other details. If the Secretary of the Treasury shall take any exceptions to the annual financial statement submitted by a company, he shall, before issuing Department Circular 570, give a company due notice of such exceptions. Copies of the Circular are available from the Assistant Commissioner, Comptroller upon request. Selection of a particular qualified company from among all

companies holding certificates of authority is discretionary with the principal required to furnish bond.

Sec. 223.17 Revocation.

Whenever it appears that a company is not complying with the requirements of 6 U.S.C. 6-13 and of the regulations in this part, the Secretary of the Treasury will:

(a) In all cases notify the company of the facts or conduct which indicate such failure, and provide opportunity to the company to respond, and

(b) In those cases where the public interest in the constant financial stability of such a company allows, also provide opportunity to the company to demonstrate or achieve compliance with those requirements. The Secretary shall revoke a company's certificate of authority with advice to it if:

(1) The company does not respond satisfactorily to his notification of noncompliance, or

(2) The company, provided an opportunity to demonstrate or achieve compliance, fails to do so.

Sec. 223.18 Performance of agency obligations.

(a) Every company shall promptly honor its bonds naming the United States or one of its agencies or instrumentalities as obligee. If an agency's demand upon a company on behalf of the agency or laborers, materialsmen, or suppliers (on payment bonds), for payment of a claim against it is not settled to the agency's satisfaction, and the agency's review of the situation thereafter establishes that the default is clear and the company's refusal to pay is not based on adequate grounds, the agency may make a report to the Secretary of the Treasury, including a copy of the subject bond, the basis for the claim against the company, a chronological resume of efforts to obtain payment, a statement of all reasons offered for non-payment, and a statement of the agency's views on the matter.

(b) On receipt of such report from the Federal agency the Secretary will, if the circumstances warrant, notify the company concerned that the agency report may demonstrate that the company is not keeping and performing its contracts and that, in the absence of satisfactory explanation, the company's default may preclude the renewal of the company's certificate of authority, or warrant prompt revocation of the existing certificate. This notice will provide opportunity to the company to demonstrate its qualification for a continuance of the certificate of authority.

Sec. 223.19 Informal hearing on agency complaints.

(a) Request for informal hearing. If a company determines that the opportunity to make known its views, as provided for under Sec. 223.18(b), is inadequate, it may, within 20 business days of the date of the notice required by Sec. 223.18(b), request, in writing, that the Secretary of the Treasury convene an informal hearing.

(b) Purpose. As soon as possible after a written request for an informal hearing is received, the Secretary of the Treasury shall convene an informal hearing, at such time and place as

he deems appropriate, for the purpose of determining whether revocation of the company's certificate of authority is justified.

(c) Notice. The company shall be advised, in writing, of the time and place of the informal hearing and shall be directed to bring all documents, records and other information as it may find necessary and relevant to substantiate its refusal to settle the claims made against it by the Federal agency making the report under Sec. 223.18(a).

(d) Conduct of hearings. The hearing shall be conducted by a hearing officer appointed by the Secretary. The company may be represented by counsel and shall have a fair opportunity to present any relevant material and to examine the agency's evidence. Formal rules of evidence will not apply at the informal hearing.

(e) Report. Within 30 days after the informal hearing, the hearing officer shall make a written report to the Secretary setting forth his findings, the basis for his findings, and his recommendations. A copy of the report shall be sent to the company.

Sec. 223.20 Final decisions.

If, after review of the case file, it is the judgment of the Secretary that the complaint was unfounded, the Secretary shall dismiss the complaint by the Federal agency concerned and shall so notify the company. If, however, it is the judgment of the Secretary that the company has not fulfilled its obligations to the complainant agency, he shall notify the company of the facts or conduct which indicate such failure and allow the company 20 business days from the date of such notification to demonstrate or achieve compliance. If no showing of compliance is made within the period allowed, the Secretary shall either preclude renewal of a company's certificate of authority or revoke it without further notice.

Sec. 223.21 Reinstatement.

If, after one year from the date of the expiration or the revocation of the certificate of authority, under Sec. 223.20 a company can show that the basis for the non-renewal or revocation has been eliminated and that it can comply with the requirements of 6 U.S.C. 6-13 and the regulations in this part, a new certificate of authority shall be issued without prejudice.

Sec. 223.22 Fees for services of the Treasury Department.

(a) Fees shall be imposed and collected, for the services listed in paragraphs (a) (1) through (4) of this section which are performed by the Treasury Department, regardless of whether the action requested is granted or denied. The payee of the check or other instrument shall be the Financial Management Service, Treasury Department. The amount of the fee will be based on which of the following categories of service is requested:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certificate of authority as an acceptable reinsuring company on such bonds (see Sec. 223.2);

(2) Examination of a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States (see Sec. 223.12(a) and (b));

reinsuring company. Where reinsurance is contemplated, Federal agencies may accept a bond from the direct writing company in satisfaction of the total bond requirement even though it may exceed the direct writing company's underwriting limitation. Within the 45 day period, the direct writing company shall furnish to the Federal agency any necessary reinsurance agreements.

However, a Federal agency may, at its discretion, require that reinsurance be obtained within a lesser period than 45 days, and may require completely executed reinsurance agreements in hand before making a final determination that any bond is acceptable. Reinsurance may protect bonds required to be furnished to the United States by the Miller Act (40 U.S.C. 270a through 270d) covering contracts for the construction, alteration, or repair of any public building or public work of the United States, as well as other types of Federal bonds. Use of reinsurance or coinsurance to protect such bonds is at the discretion of the direct writing company. Reinsurance shall be executed on reinsurance agreement forms (Standard Form 273 for Miller Act Performance bonds (formerly form No. TFS 6317), Standard Form 274 for Miller Act Payment bonds (formerly form No. TFS 6318), and Standard Form 275 for other types of Federal bonds (formerly form No. TFS 6319)). Federal bond-approving officers may obtain the forms by submitting a requisition in FEDSTRIP/MILSTRIP format to the General Services Administration regional office providing support to the requesting Government organization. In addition, the forms are available to authorized sureties and reinsurers from the Superintendent of Documents, Government Printing Office, Stop: SSMC, Washington, DC 20402.

(2) In respect to risks covered by bonds or policies not running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond or policy with:

(i) One or more companies holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds or one or more companies holding a certificate of authority as an acceptable reinsuring company on such bonds, or

(ii) One or more companies recognized as an admitted reinsurer in accord with Sec. 223.12, or

(iii) A pool, association, etc., to the extent that it is composed of such companies, or

(iv) An instrumentality or agency of the United States which is permitted by Federal law or regulation to execute reinsurance contracts.

(3) No certificate-holding company may cede to a reinsuring company recognized under Sec. 223.12 any risk in excess of 10 percent of the latter company's paid-up capital and surplus.

(c) Other methods. In respect to all risks other than Miller Act performance and payment bonds running to the United States, which must be insured or reinsured in accord with paragraph (a) or (b)(1) of this section respectively, the excess liability may otherwise be protected:

(1) By the deposit with the company in pledge, or by conveyance to it in trust for its protection, of assets admitted by the Treasury the current market value of which is at least equal to the liability in excess of its underwriting limitation, or

(3) Determination of a company's continuing qualifications for annual renewal of its certificate of authority (see Sec. 223.3); or

(4) Determination of a company's continuing qualifications for annual renewal of its authority as an admitted reinsurer (see Sec. 223.12(c)).

(b) In a given year a uniform fee will be collected from every company requesting a particular category of service, e.g., determination of a company's continuing qualifications for annual renewal of its certificate of authority. However, the Treasury Department reserves the right to redetermine the amounts of fees annually. Fees are determined in accordance with Office of Management and Budget Circular A-25, as amended.

(c) Specific fee information may be obtained from the Assistant Commissioner, Comptroller at the address shown in Sec. 223.2. In addition, a notice of the amount of a fee referred to in Sec. 223.22(a) (1) through (4) will be published in the Federal Register as each change in such fee is made.

[43 FR 12678, Mar. 27, 1978, as amended at 49 FR 47001 and 47002, Nov. 30, 1984]

EXHIBIT "D"

Stipulation to Revise Reclamation Agreement (Non-Federal)

Permit Number: C/007/0012

Effective Date: 04/16/2009

Bond Number: 5035659

COAL

STIPULATION TO REVISE RECLAMATION AGREEMENT

--ooOOoo--

This **STIPULATION TO REVISE RECLAMATION AGREEMENT** entered into by and between the **PERMITTEE** and **DIVISION** incorporates the following revisions or changes to the **RECLAMATION AGREEMENT**: (Identify and Describe Revisions below)

Transfer of surety bond from Fidelity and Deposit Company of Maryland to Bond Safeguard Insurance Company.

In accordance with this **STIPULATION TO REVISE RECLAMATION AGREEMENT**, the following Exhibits have been replaced by the **PERMITTEE** and are approved by the **DIVISION**.

- ☐ Replace the Reclamation agreement in its entirety.
- ☐ Replace Exhibit "A"- permit area.
- ☒ Replace Exhibit "B"- bonding agreement
- ☐ Replace Exhibit "C"- liability insurance

The bonding amount is revised from \$ _____ to \$ _____.

The bonding type is changed from _____ to _____.

The surface disturbance is revised from _____ acres to _____ acres.

The expiration date is revised from _____ to _____.

The liability insurance carrier is changed from _____ to _____.

The amount of insurance coverage for bodily injury and property damage is changed from \$ _____ to \$ _____.

Exhibit "D"
Stipulation to Revise
Reclamation Agreement
Non-Federal

from \$_____ to \$_____.

IN WITNESS WHEREOF, Roberto the **PERMITTEE** has hereunto set its
signature and seal this 29 day of May, 2009.

Roberto Denis
PERMITTEE

By: [Signature]

Title: PRESIDENT OF NEICO

ACCEPTED BY THE STATE OF UTAH this ____ day of _____, 20____.

Director, Division of Oil, Gas and Mining

NOTE: An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.